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10 Attorneys for Plaintiff
11 FACEBOOK, INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION
15

16 FACEBOOK, INC.,

17 Plaintiff,

18 v.

19 STUDIVZ LTD., HOLTZBRINCK
20 NETWORKS GmbH, HOLTZBRINCK
VENTURES GmbH, DENNIS BEMMANN,
MICHAEL BREHM, AND DOES 1-25,

21 Defendants.
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Case No. 5:08-cv-03468 JF

**DECLARATION OF JULIO C.
AVALOS IN SUPPORT OF
FACEBOOK INC.'S MOTION TO
SHORTEN TIME PURSUANT TO
CIVIL L.R. 6-3**

Judge: Honorable Judge Lloyd

1 I, Julio C. Avalos, declare as follows:

2 1. I am an attorney with the law firm of Orrick, Herrington & Sutcliffe LLP, counsel
3 for Plaintiff Facebook, Inc. ("Facebook"). I make this Declaration in support of Facebook's
4 Motion to Shorten Time Pursuant to Northern District of California Civil Local Rule 6-3. I am an
5 active member in good standing of the California State Bar. Except as set forth herein, I have
6 personal knowledge of the facts stated herein and if called as a witness, could and would
7 competently testify thereto.

8 2. On October 14, 2008, Facebook served a first round of jurisdictional discovery
9 requests upon Defendants StudiVZ Ltd., Holtzbrinck Networks GmbH and Holtzbrinck Ventures
10 GmbH ("Defendants").

11 3. On February 2, 2009, Facebook served a second round of jurisdictional discovery
12 requests upon Defendants.

13 4. On March 3, 2009, I accompanied my colleague Tom Gray to the hearing before
14 Judge Lloyd on Facebook's Motion to Compel Discovery Responses to Facebook's First Round
15 of Jurisdictional Discovery. Defense counsel made no mention of the Second Round of
16 Jurisdictional Discovery.

17 5. On March 4, 2009, Defendants responded to Facebook's Second Round of
18 Discovery with blanket objections.

19 6. Because oral argument on Facebook's First Motion to Compel had taken place just
20 the day before, Facebook's counsel thought it prudent to wait until the first discovery dispute was
21 resolved prior to filing a second motion to compel discovery responses. Facebook believed that
22 the Court would imminently issue an order granting Facebook's motion to compel .

23 7. On May 21, 2009, I telephoned Magistrate Judge Lloyd's chambers and spoke to
24 his deputy clerk and law clerk. The purpose of the telephone call was to inquire as to the status of
25 the order on Facebook's first motion to compel. I was informed that the Court was "well aware"
26 of the pending motion and that an order would be issued in due time.

27 8. On May 26, 2009, I met and conferred with defense counsel Stephen S. Smith and
28 his partner William Walker. The meet and confer took place over telephone. Mr. Smith

1 represented that he and his clients continue to believe that Facebook's second round of discovery
2 is untimely and/or precluded by the Court's previous orders. Mr. Smith also refused to stipulate
3 to expedited briefing on Facebook's Motion to Compel or Defendants' Motion to Quash.

4 I declare, under penalty of perjury, that the foregoing is true and correct to the best of my
5 knowledge.

6 Executed this 26th day of May, at Menlo Park, California.

7
8 /s/ Julio C. Avalos /s/
9 JULIO C. AVALOS

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that this document(s) filed through the ECF system will be sent
3 electronically to the registered participants as identified on the Notice of Electronic Filing (NEF)
4 and paper copies will be sent to those indicated as non registered participants on May 26, 2009.

5 Dated: May 26, 2009

Respectfully submitted,

6 /s/ Julio C. Avalos /s/
7 Julio C. Avalos
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